IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

APPEAL FROM ORDER NO.1036 OF 2005

M/s.Universal Communications Pvt.Ltd. ...Appellant.

Vs.

Union of India & Anr. ...Respondents.

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Mr. A. M. Saraogi for the Appellant.
Mr.S. R. Rajguru for Respondent No.1.

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CORAM : DR. D.Y. CHANDRACHUD, J.

November 17, 2005.

P.C.:

The Learned Trial Judge in the City Civil Court has declined to grant ad-interim relief restraining the invocation of an unconditional Bank Guarantee by the order impugned in these proceedings. The guarantee issued on behalf of the Appellant on 15th April 2005 (Exh.C to the Plaint) is an unconditional and irrevocable Bank Guarantee. The Bank has agreed to pay on written demand or without demur, any claim up to a maximum of Rs.34,00,000/- that may arise on account of non-payment by the producer of the serial 'Maryada' of the TV advertisement charges within the period allowed to them or upon failing to adhere to the prescribed time schedule in the said agreement. The guarantee

has the usual clauses of an unconditional and irrevocable Bank Guarantee. Prasar Bharati in its letter dated 27th July 2005 has informed the Appellant that there is an outstanding amount of Rs.53,81,940/- on account of the Appellant in respect of the telecast of the serial upto 22nd July 2005. The Plaint does not contain any averment of fraud much less of irretrievable injustice. There is no averment in regard to special equities. The basic conditions requisite to the grant of injunction in such a case have not been fulfilled. In view of the settled position of law laid down by the judgments of the Supreme Court, the Learned Trial Judge was justified in declining to grant an ad-interim injunction in respect of the encashment of the Bank Guarantee in the present case. There is no merit in the appeal which is accordingly dismissed. Counsel appearing on behalf of the Appellant seeks a stay which is refused.

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